IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 865 of 2000
to
FIRST APPEAL No 900 of 2000
with
FIRST APPEAL No 6426 to 6458 of 1999
with
CROSS-OBJECTIONS No 57, 58 and 59 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH Sd/-
and
HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 & 2 YES; 3 to 5 NO

STATE OF GUJARAT

Versus

ARVINDBHAI VIRMABHAI PATEL

Appearance:

First Appeals No. 865 to 888 of 2000

MR ARUN D OZA GOVERNMENT PLEADER for Appellant

MR RN SHAH with MR MUNSHI for Respondents

First Appeals No. 889 to 900 of 2000

MR AY KOGJE ASST GOVT PLEADER for Appellant

MR RN SHAH with MR MUNSHI for Respondents

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 09/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

These appeals of the State Government, under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") read with Section 96 of the Code of Civil Procedure, 1908, are directed against the judgment and award dated 12.7.1999 of the learned Assistant Judge of Sabarkantha at Himatnagar, partly allowing Land Reference Cases No.906 to 941 of 1992, being a group of 36 references.

2. The lands in question are situate in the outskirts of village Munshiwada, taluka Modasa in Sabarkantha district. The notification under Section 4 of the Act was published on 29.5.1980, the notification under Section 6 of the Act was published on 2.8.1981 and the Land Acquisition Officer declared his award on 19.3.1982 fixing the price of the lands under acquisition @ Rs.6,000/- per Acre for irrigated land, @ Rs.4,500/- per Acre for non-irrigated land and @ Rs.40/- per Acre for waste land. In terms of the Reference Applications, the rate awarded by the Land Acquisition Officer worked out to Rs.150/- per Are for irrigated land, Rs.112.50 per Are for non-irrigated land and Re.1/- per Are for waste land. The references under Section 18 of the Act were made in the year 1992 pursuant to the order passed by this Court on 28.8.1989 in Special Civil Application No.2086 of 1988. Upon the references being made, the State Government pressed the plea of references having been barred by the law of limitation and also agitated the ground that the award made by the Land Acquisition Officer was a consent award. The Reference Court negatived both the contentions and awarded additional amount of compensation @ Rs.340/- per Are for irrigated land, Rs.355/- per Are for non-irrigated land and Rs.49/per Are for waste land to the applicants of Reference Cases No.906 to 936 of 1992. The Reference Court also awarded additional compensation @ 20% on the amount already paid for the superstructure in Land Reference Cases No.937 to 941 of 1992. In this group of

appeals, we are not concerned with the additional compensation for superstructure. Over and above the amount of additional compensation, the Reference Court also awarded 30% solatium and interest @ 9% per annum for the first year from the date of taking over possession and thereafter @ 15% per annum till realization of the additional amount of compensation.

Aggrieved by the aforesaid judgment and award, the State Government has filed this group of appeals.

SUBMISSIONS ON BEHALF OF STATE GOVERNMENT.

3. At the hearing of the appeals, Mr.Arun D. Oza, learned Government Pleader with Mr.A.Y.Kogje, learned Assistant Government Pleader, made the following submissions:-

(i) Pursuant to the notifications under Sections 4 and 6 of the Act published on 29.5.1980 and 2.8.1981 respectively, the Land Acquisition Officer had made the award on 19.3.1982. Apart from the compensation paid earlier at the time of taking possession, compensation was also paid to the claimants on 19th and 20th March, 1982 when the award was made. The claimants did not make any application for reference till February, 1989 and, therefore, the applications for reference made in February 1989 were all grossly time-barred. The Reference Court erroneously turned down the plea of limitation.

(ii) The award made by the learned Land Acquisition Officer on 19.3.1982 was a consent award. The representatives of the landholders of village Munshiwada and others were consulted and they had agreed to accept the compensation @ Rs.6,000/- per Acre for irrigated land and Rs.4,500/- per Acre for non-irrigated land, i.e. Rs.150/- per Are and Rs.112.50 per Are respectively. Since the award was made by the learned Land Acquisition Officer with the consent of the landholders, the references were not maintainable. The Reference Court has erred in not accepting the said contention of the authorities.

(iii) The Reference Court has also erred in determining the market value of the lands @ Rs.400/- per Are though no comparable sale instances or awards for acquisition of land in 1980 were cited by the claimants.

(iv) In any view of the matter, the judgment and award of the Reference Court suffers from apparent arithmetical mistake inasmuch as although the Land Acquisition Officer had awarded compensation @ Rs.6000/- per Acre (Rs.150/per

Are) for irrigated land and @ Rs.4500/- per Acre (Rs.112.50 per Are) for non-irrigated land, the Reference Court has, while computing additional compensation, deducted only Rs.60/- and Rs.45/- per Are respectively as the market value determined by the Land Acquisition Officer. This has resulted into incorrect computation and, although the application for correcting such apparent arithmetical mistake was made by the Land Acquisition Officer before the Reference Court on 22.10.1999, being Misc. Civil Application No.109 of 1999 and cognate applications, no orders have been passed thereon. Therefore, the said mistake is required to be corrected by this Court in appeal.

The learned Government Pleader and the learned Assistant Government Pleader have, therefore, submitted that the appeals filed by the Government deserve to be allowed and the appeals and cross-objections filed by the claimants deserve to be dismissed.

SUBMISSIONS ON BEHALF OF CLAIMANTS:

4. On the other hand, Mr.R.N.Shah and Mr.Munshi, learned advocates for the claimants (also appearing for the respondents in the Government appeals) have submitted that the Government appeals deserve to be dismissed and the appeals/cross-objections filed by the claimants deserve to be allowed.

4.1 On the question of limitation, the learned counsel for the claimants have supported the judgment of the Reference Court and submitted that since a Division Bench of this Court presided over by the then Hon'ble Chief Justice had, by judicial order dated 28.8.1989 in Special Civil Application No.2086 of 1988 and connected matters, directed the authorities to make references under Section 18 of the Act, the authorities, including the Land Acquisition Officer, were estopped from raising the plea of limitation.

4.2 The award dated 19.3.1982 of the Land Acquisition Officer was not a consent award. The Government Resolution dated 20.10.1989 was relied upon by the authorities in support of the said contention but that Resolution was not exhibited before the Reference Court. In any view of the matter, the said Resolution refers to the consent given by a few individuals and not by all of the landholders. Moreover, the said Resolution refers to the consent given by certain persons claiming to be representatives of the landholders not only for the lands in village Munshiwada (with which this group of appeals is concerned) but also for the lands in village Sayra. The Land Acquisition Officer had awarded compensation

Rs.5000/- per Acre for non-irrigated land and Rs.7,000/per Acre for irrigated land, i.e. @ Rs.125/per Are for non-irrigated land and Rs.175/- per Are for irrigated land. The owners of the lands in village Sayra, which were acquired, got references made under Section 18 of the Act and, by the judgment and award dated 31.7.1983, the learned Assistant Judge of Sabarkantha at Himatnagar assessed the market value of the lands in village Sayra at Rs.500/- per Are instead of Rs.175/- per Are. If the award for the lands in village Sayra as well as the award for the lands in village Munshiwada were passed under the aforesaid Resolution dated 28.10.1989, the award for the lands in Sayra village would also have been a consent award, but no such plea was raised in the references or appeals in respect of the lands of village Sayra.

4.3 The market value determined by the Reference Court @ Rs.400/- per Are was inadequate and the amount was required to be substantially enhanced.

4.4 Even if any arithmetical mistake was found in the award of the Reference Court, no interference on that count was required to be made with the award of the Reference Court. The appropriate remedy would be for the Government to pursue the applications, if any, pending before the Reference Court.

Contention (i): Plea of limitation.

5. Taking up the first contention regarding limitation urged by the learned Government Pleader, it may appear at the first blush that since the Land Acquisition Officer had made the award on 19.3.1982 and the reference applications were made by the claimants in February 1989, there was a delay of more than six years in filing the reference applications under Section 18 of the Act. Section 18 of the Act prescribes as under the period of limitation for making reference applications:

"S.18 Reference to Court:

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made:

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases within six weeks of the receipt of the notice from the Collector under Sec.12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

6. It is, of course, not the case of the authorities that the authorities had sent notices under Section 12 (2) of the Act to the claimants, but the learned Government Pleader submitted that since the claimants had accepted the amounts on 19.3.1982 and the payments were made in pursuance of the award dated 19.3.1982, the claimants must be attributed with the knowledge of the award and, therefore, the reference applications were required to be made within six weeks from the date of the award, i.e. in the first week of May, 1982.

7. In support of the above plea, Mr.Ambadan Ashiya, talati-cum-mantri of village Munshiwada, was examined before the Reference Court. The then talati-cum-mantri for the group gram panchayat for villages Volva, Munshiwada and Dariapur stated that he had identified the claimants before the Land Acquisition Officer at the time of payment of compensation to them on 19th and 20th March, 1982 and that they had put their signature/thumb mark acknowledging receipt of the amounts of compensation. In cross-examination, this witness stated that he was not aware as to what award was passed by the Land Acquisition Officer for acquisition of lands in village Munshiwada and as to when the Land Acquisition Officer made such award. He was also not aware as to whether the payments made on 19th and 20th March, 1982 were pursuant to any interim award or the final award.

8. On behalf of the claimants, Shri Narsinhbhai and Jayantibhai Bhikabhai Patel were examined as witnesses at Exh.13 and 122 in Reference Case No.906 of 1992 which was treated as the lead reference. It was deposed by Shri

Jayantibhai Bhikabhai Patel (Exh.122) that the owners of the lands which were acquired from village Munshiwada were not given any notice under Section 12 (2) of the Act. He further stated that the land owners were neither informed about the award having been made nor a copy of the award nor summary thereof was given to any claimants. The claimants had neither given any consent nor entered into any agreement. The payments in question made to the claimants were by way of interim compensation @ 75%, but the claimants were not informed about the rate at which compensation was determined. It was for the first time in February, 1989 that the claimants came to know about the award having been made by the Land Acquisition Officer. Hence, the claimants made applications under Section 18 of the Act and thereafter the Deputy Collector made the references to the Court in 1992.

9. As far as the claimants' case that they were not served with notice under Section 12 (2) of the Act is concerned, there is no dispute about that factual aspect. Therefore, the question of applying the proviso (b) to sub-section (2) of Section 18 does not arise. The only question is whether the authorities have shown that the claimants were present or were represented before the Land Acquisition Officer at the time when he made the award. The award is said to have been made on 19.3.1982. The claimants do not dispute having received the amounts of compensation on 19th and 20th March, 1982. However, they pleaded ignorance of the factum of the award having been made and the payments having been made pursuant to the final award. Ordinarily, one would attribute to a claimant receiving payment of compensation for acquisition of his land, knowledge of the award made by the Land Acquisition Officer, but in the facts of the present case, it transpires that at the time of taking possession also, the Land Acquisition Officer had made payment of 25% of the compensation and on 19th and 20th March, 1982 another 75% of the compensation was paid. It is, therefore, possible to accept the claimants' version that interim compensation was paid by the authorities at the time of taking over possession of the land, and, similarly, another interim compensation was paid to them on 19th and 20th March, 1982. Since two views are possible and the Reference Court which had the benefit of observing the demeanour of the witnesses has held that the claimants were not aware of the final award having been made by the Land Acquisition Officer on 19th and 20th March, 1982 when they accepted payments, we are not inclined to disturb that finding of the Reference Court.

10. In view of the above discussion, the authorities

have not succeeded in satisfying the ingredients of either clause (b) or clause (a) of the proviso to sub-section (2) of Section 18 of the Act.

11. The above aspects are also required to be appreciated in the context of the petitions which were filed by the claimants in the year 1988 for the following reliefs:-

> "The Hon'ble Court be pleased to issue a writ of mandamus.....directing the respondents, their agents and servants to allot agricultural lands as per the policy laid down by the Government forthwith;
>
> The Hon'ble Court be pleased to issue a writ of mandamus.....directing the respondents to make a reference under Section 18 of the Land Acquisition Act and for getting enhanced compensation under the provisions of the Act."

11.1 In the memo of the above petitions, the claimants had heavily relied upon the Government Resolution dated 11.6.1979 providing for a scheme for rehabilitation and resettlement of the persons affected by acquisition of lands for Majum Irrigation Scheme covering the lands in villages Munshiwada, Sayra and other villages. The petitioners' grievance was that, under the aforesaid scheme, some of the landholders were given lands but the other landholders were not given such alternative land and, therefore, the authorities were guilty of discriminatory treatment. This appeared to be the major grievance in the aforesaid petitions and there was also additional prayer that the compensation awarded to the petitioners was inadequate and, therefore, the authorities be directed to make a reference for enhancement of the compensation amount.

11.2 In response to a query from the Court, the learned Government Pleader stated that no affidavit-in-reply was filed in the said petition but, when the petition reached hearing, the Division Bench of this Court (Coram: Hon'ble P.K.Gokulakrishnan, CJ and Hon'ble R.A.Mehta, J.) passed the following order on 28.8.1989:-

> " The learned counsel for the petitioners in all the petitions states that the petitioners are interested only in a reference under Section 18 of the Land Acquisition Act and such contentions which can be raised in such a

reference. On behalf of the respondents, Mr.G.D.Bhatt, the learned Assistant Government Pleader, states that the respondents are agreeable to make the reference under Section 18 of the Land Acquisition Act if the petitioners move the Land Acquisition Officer for such reference within 15 days from today. In view of these rival statements, the petitioners are directed to make applications for reference within a period of 15 days from today to the Land Acquisition Officer and the Land Acquisition Officer is directed to make references to the appropriate court at the earliest.

Letter of the Additional Collector (Irrigation) dated 23rd August, 1989 is taken on record. It is made clear that it would be open to the petitioners to raise all contentions which are available to them under Section 18 of the Act and no other contentions.

In view of these directions, the learned counsel for the petitioners withdraws these petitions. These petitions are dismissed as withdrawn. Notices discharged.

Sd/- P.R.Gokulakrishnan, C.J.
28.8.89. Sd/- R.A.Mehta, J."

11.3 It is thus clear that at the hearing before this Court, the authorities did not raise any plea about the limitation for making reference applications having expired. On the contrary, it was specifically stated on behalf of the authorities (the respondents in those petitions) that they were agreeable to making references under Section 18 of the Act if the petitioners move the Land Acquisition Officer for such references within 15 days. The case of the claimants is that since they had already made the applications in February 1989, it was not necessary to make fresh applications after 28.8.1989 and that is why the Land Acquisition Officer did make references to the District Court, Sabarkantha.

12. Looking to the aforesaid stand of the State Government before this Court in the above petitions wherein the petitioners had initially prayed for grant of alternative land, and since the Government agreed to make references as indicated above, the Government is estopped from raising the plea of limitation. That apart, in view of the earlier discussion as regards inability of the Government to satisfy the Court about applicability of either of the clauses in the proviso to sub-section (2) of Section 12 of the Act, we do not accept the plea that

the applications for references were made after the period of limitation had expired.

Contention (ii): Was the LAO's Award a consent award?

13. Coming to the second contention that the award made by the Land Acquisition Officer on 19.3.1982 was a consent award, the only material sought to be relied upon by the learned Government Pleader is the Resolution dated 20.8.1981 issued by the Irrigation Department, which states that a meeting was held wherein representatives of Sabarkantha District Panchayat, Modasa Taluka Panchayat, Sarpanchs of Volva group gram panchayats, Sarpanchs of village Sayra and Members of the Advisory Committee for Rehabilitation were present and that certain decisions were taken at the said meeting. On perusal of the record, we do not find that a copy of the said Resolution dated 20.8.1981 was exhibited. The resolution refers to some consensus amongst one representative of the District Panchayat, one representative of the Taluka Panchayat, Sarpanchs of two villages and seven persons stated to be members of Majum Irrigation Scheme Rehabilitation Advisory Committee and two residents of Munshiwada, fixing compensation for acquisition of lands as per the following formula:-

Rate of compensation

	Group A.	Group B. other villages
Non-irrigated land	Rs.4,500/- per acre	Rs.3,800/- per acre
Irrigated land	Rs.6,000/- per acre	Rs.5,000/- acre
Waste land	Rs.100/- per acre (Rs.40/- per Are)	

The schedule to the said Resolution specifies Munshiwada as the only village falling in Group A, and 11 other villages, including villages Sayra and Volva, as falling in Group B.

14. When the aforesaid Resolution was relied upon before the Reference Court, the Reference Court held that the consent given by the two residents of the village Munshiwada cannot be applied to the other lands. The learned Government Pleader fairly stated that apart from the two residents of village Munshiwada, the claimants in

this group of appeals had not given any such consent. Moreover, if the Resolution were intended to embody the consensus for determining the rate of compensation for all the lands acquired for Majum Irrigation Project, the lands in village Sayra were also covered by the said Resolution. But, when the owners of the lands from village Sayra had made reference applications, the authorities did not raise the plea that the award passed by the Land Acquisition Officer for the lands in village Sayra was a consent award. The judgment and award dated 31st July, 1987 passed by the learned Assistant Judge, Sabarkantha at Himatnagar in Land Reference Case No.42 of 1985 has been strongly relied upon by the claimants and on perusal of the said judgment we find that no such plea about the consent award was raised on behalf of the authorities. It is true that the notification under Section 4 of the Act for acquisition of the lands in village Sayra was published on 20.10.1983, but it is necessary to note that possession of the said lands was already taken on 17.3.1983 and we find that the lands in village Sayra as well as the lands in village Munshiwada were acquired for the purpose of Majum Irrigation Scheme. In the aforesaid background, we are not in a position to accept the plea of the learned Government Pleader and the learned Assistant Government Pleader that the award made by the Land Acquisition Officer on 19.3.1982 was a consent award.

Contention (iii): Rate of Compensation.

15. Coming to the third contention urged by the Government Pleader about the amount determined by the Reference Court as the market value of the lands in question, we find that there is some substance in the submissions made on behalf of the Government that, when it came to consideration of the question whether the award in question was a consent award, the claimants submitted that since the Government Resolution was not exhibited and otherwise also, the Government Resolution was not binding on the claimants, the classification of the lands as set out in the Schedule to the Resolution cannot be permitted to be relied upon by the claimants. Admittedly both the villages are on banks of the same river - the village Sayra is on one side of river Majum and the village Munshiwada is on the other bank of river Majum.

16. Apart from reference to the aforesaid Resolution and the oral evidence of the talati-cum-mantri referring to the aforesaid classification of lands in village Munshiwada and Sayra as "A" category and "B" category

lands, no evidence is led by the claimants to show that the lands in village Munshiwada are more fertile than those in village Sayra. We are, therefore, not inclined to accept the finding given by the Reference Court that the lands in village Munshiwada have to be treated as having greater market value than the lands in village Sayra. In this view of the matter, the assessment made by the Reference Court that in the year 1983 the lands in village Munshiwada should be treated as having greater value as against the market value of lands in village Sayra in 1983, and the value of the lands in village Munshiwada in the same year should be higher, i.e. Rs.500 + Rs.50 = Rs.550, cannot be sustained. We are of the view that in the year 1983 also, the value of the lands in village Munshiwada must be treated as the same as that of the value of lands in village Sayra. Since the acquisition of the lands in village Munshiwada, which is the subject-matter of the present group of appeals, was made pursuant to the notification under Section 4 of the Act published on 29.5.1980 and whereas the notification under Section 4 of the Act in respect of the lands in village Sayra was published on 20.10.1983, the Reference Court rightly applied deduction @ 10% per year i.e. 30%. In view of the above discussion, the market value of the lands in village Munshiwada as on 29.5.1980 will have to be assessed as Rs.500 less Rs.150 = Rs.350/- per Are.

17. In the earlier judgment dated 30.6.1999 given by the same learned Judge of Sabarkantha at Himatnagar, Mr.A.K.Aswani, the market value of the lands in village Munshiwada acquired under the same notification dated 29.5.1980 and for the same public purpose was determined at Rs.350/- per Are. It is surprising as to how within 12 days thereafter, the same learned Assistant Judge has determined in the impugned judgment the market value of the lands of the same village at Rs.400/- per Are, even though the claim about classification of the lands of village Munshiwada in "A" category and lands of village Sayra as "B" category was referred to in the said judgment dated 30.6.1999 also.

18. We may note at this stage that after the judgment was dictated so far, Mr.Munshi, learned counsel for the claimants, sought leave to rely upon the judgment dated 30.8.1997 of the learned Assistant Judge, Sabarkantha District, Himatnagar in Land Reference Case No.4019 of 1989 and 4085 to 4137 of 1989 with main Land Reference Case No.4118 of 1989. It is strenuously submitted on behalf of the claimants that the said judgment decided land reference cases arising from acquisition of lands in

village Sayra under the same notification dated 29.5.1980 and the Reference Court awarded additional compensation after holding that the market value of the lands in village Sayra as on 29.5.1980 was Rs.475/- per Are for irrigated land and Rs.425/- per Are for non-irrigated land.

19. However, we find that the claimants had themselves produced in the aforesaid Land Reference Case No.4019 of 1989 and the group at Exh.52 the judgment for lands in village Sayra acquired under the Notification published on 20.10.1983. Even after accepting the said award of the Reference Court determining market value of the lands in Sayra as Rs.500/- per Are as on 20.10.1983, the learned Assistant Judge while rendering the judgment dated 30.8.1997 in the later group of references has not at all explained as to why deduction is not made for 30% on account of the time-gap of three and a half years between the notification dated 29.5.1980 in the first reference for Sayra lands and the second notification dated 20.10.1983 for the subsequent acquisition of other lands in the same village. The learned Judge dealing with the group of Sayra cases under Notification dated 29.5.1980 has determined the market value for the lands at Rs.475/- per Are without making the aforesaid deduction and, therefore, we are not in a position to accept the submission sought to be made by the learned counsel for the claimants to fix Rs.475/- per Are as the market value of the lands in village Sayra or in village Munshiwada as on 29.5.1980. We are of the view that the market value of the lands in village Sayra as on 20.10.1983 was rightly valued by the Reference Court at Rs.500/- per Are and going three-and-half years backwards i.e. to 29.5.1980, the market value of the lands in village Sayra has to be determined at Rs.350/- per Are. As already discussed earlier, the lands in village Sayra and the lands in village Munshiwada have to be treated as belonging to the same category. Therefore, the market value of the lands in village Munshiwada as on 29.5.1980 is determined at Rs.350/- per Are out of which the amount awarded by the Land Acquisition Officer has to be deducted. The above figures are for irrigated land. Similarly, for non-irrigated land, applying the usual formula of deducting 25% from the value of irrigated land, the market value would be Rs.262.50 per Are from which the amount awarded by the Land Acquisition Officer has to be deducted.

Contention (iv): Deduction of compensation awarded by Land Acquisition Officer.

20. Since the Land Acquisition Officer had already awarded compensation @ Rs.150/- per Are for irrigated lands, the additional compensation of compensation payable to the claimants would be Rs.200/- per Are. On perusal of the judgment under appeal, we fail to appreciate as to why the Reference Court while computing additional compensation payable to the claimants, instead of deducting Rs.150/per Are as awarded by the Land Acquisition Officer for irrigated lands, has deducted only Rs.60/- for irrigated lands and only Rs.45/- per Are for non-irrigated lands. The judgment on the face of it is, therefore, vitiated by non-application of mind while making computation of additional compensation. It appears that the above serious mistake crept in because, after referring to the fact in the earlier part of the judgment that the Land Acquisition Officer awarded Rs.6,000/- per Acre for irrigation land and Rs.4,500/- per Acre for non-irrigated land, while converting the said compensation into the amount per Are, instead of dividing the said amount of Rs.6,000/- by 40 (1 Acre = 40 Are, i.e. Rs.6000/40 = Rs.150 per Are), the learned Assistant Judge divided it by 100 making it Rs.60/- per Are as awarded by the Land Acquisition Officer and similarly for non-irrigated land, the compensation awarded by the Land Acquisition Officer @ Rs.4500/- per Acre came to be converted into the amount per Are by dividing it by 100 making it Rs.45/- per Are instead of dividing it by 40, which should make it Rs.112.50 per Are.

21. As far as waste land is concerned, since the Reference Court has valued the land at Rs.50/- per Are and the area of waste land is not significant, the learned Government Pleader has not pressed the challenge to the market value of the waste land in the present appeals.

CONCLUSIONS:

22. In view of the above discussion, we hold that the market value of the lands in village Munshiwada as on 28.5.1980, i.e. the date of notification under Section 4 of the Act, was as under:-

(i) Rs.350/- per Are for irrigated land from which Rs.150/- per Are awarded by the Land Acquisition Officer will have to be deducted and, therefore, the additional compensation will be only Rs.200/- per Are for irrigated land.

(ii) Rs.262.50 per Are for non-irrigated land from

which Rs.112.50 per Are, the amount awarded by the Land Acquisition Officer, will have to be deducted and, therefore, the additional compensation will be only Rs.150/- per Are.

(iii) Rs.50/- per Are for waste land.

APPEALS INVOLVING SMALL AMOUNTS:

23. It has been the practice of this Court to dismiss Government appeals involving small amounts, i.e. less than Rs.30,000/- in each appeal. As per this practice, looking to the smallness of the amounts involved, the following seven First Appeals of the State Government deserve to be dismissed:

Sr. No.	First Appeal No.	Land Ref. Case No.	Amount deposited by Government. Rs.
1.	882 of 2000	923 of 1992	24,443.00
2.	892 of 2000	933 of 1992	24,424.00
3.	896 of 2000	937 of 1992	3,259.00
4.	897 of 2000	938 of 1992	2,157.00
5.	898 of 2000	939 of 1992	3,071.00
6.	899 of 2000	940 of 1992	2,517.00
7.	900 of 2000	941 of 1992	929.00

24. After pointing out that the additional amounts awarded by the Reference Court were below Rs.10,000/- in each of the above cases and that there were other appeals where the additional amounts awarded by the Reference Court were less than Rs.30,000/-, the learned counsel for the claimants have submitted that while deciding the smallness of the amount involved, we should only look at the statement of additional compensation awarded by the Reference Court and not the actual additional amount deposited by the State Government pursuant to the judgment of the Reference Court.

We are afraid this contention cannot be accepted. In most of the cases, on account of passage of time, the Government has deposited interest @ 15% from the date of expiry of one year from the date of taking over

possession of the lands in question and, therefore, what has weighed with us is the actual financial burden on the State Government and not mere computation by the Reference Court.

25. The learned counsel for the claimants disputed the calculations regarding the amounts deposited by the Government. We are not going into that controversy as it is for the executing court to consider such controversy, if any.

ORDER

26. In view of the above discussion, First Appeals No.865 to 881, 883 to 891, 893 to 895 of 2000 filed by the State Government are allowed and the market value of the lands in village Munshiwada as on 29.5.1980 is determined as under:-

(i) Rs.350/- per Are for irrigated land from which the amount awarded by the Land Acquisition Officer at Rs.150/- per Are is required to be deducted and the additional compensation would be Rs.200/- per Are.

(ii) Rs.262.50 per Are for non-irrigated land, from which the amount awarded by the Land Acquisition Officer at Rs.112.50 per Are is required to be deducted and the additional compensation would be Rs.150/- per Are.

(iii) Rs.50/- per Are for waste land as determined by the Reference Court is not disturbed for the reasons given in paragraph 21.

The landowners shall be paid the amounts of solatium and interest on the basis of the amounts of additional compensation as indicated above in accordance with the provisions of the Land Acquisition Act, 1894.

The awards made by the Reference Court in Land Acquisition References No.865 to 900 of 2000 shall accordingly stand substituted by the aforesaid award. The appeals are accordingly partly allowed in the aforesaid terms. Any amounts paid by the Government to the claimants at the rates in excess of the aforesaid rates shall be refunded to the State Government. In case such excess amounts are lying deposited with the Reference Court, the State Government shall be permitted to withdraw such amounts in excess of the amounts payable under this judgment.

27. For the reasons indicated in paragraphs 23 and 24 hereinabove, we dismiss Government Appeals being First Appeals No.882, 892, 896 to 900 of 2004 on the ground of smallness of the amounts involved. The rest of the appeals filed by the Government are allowed in the aforesaid terms. The cross-appeals filed by the claimants and the cross-objections filed by the claimants are hereby dismissed. In the facts of the case, there shall be no order as to costs in all these appeals.

28. At this stage, the learned counsel for the claimants pray for stay of operation of this judgment in order to enable the claimants to have further recourse in accordance with law.

The learned Government Pleader opposes this prayer.

29. In the facts of the case, the claimants are granted time upto 31.1.2005 to refund the amounts in accordance with the directions given in this judgment. As far as the amounts lying with the Reference Court are concerned, no withdrawal shall be made by the Government till 31.1.2005. In view of this order, there is no need to stay the operation of this judgment.

Sd/-

(M.S.Shah, J.)

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)